

**DEPARTMENT OF HUMAN SERVICES -  
REVIEW AND OVERSIGHT**

2010 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Open and Public Meetings Act, the Utah Human Services Code, and the Government Records Access and Management Act to provide review and oversight relating to fatalities and other matters that occur in relation to a person in the custody of, or who has received services from, the Department of Human Services.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends provisions of the Open and Public Meetings Act to require that meetings of the Health and Human Services Interim Committee and the Child Welfare Legislative Oversight Panel to review individual cases be closed meetings;
- ▶ requires that investigations of abuse or neglect of a child who is in the custody of the Division of Child and Family Services shall be conducted by an independent child protective service investigator from the private sector;
- ▶ codifies and amends provisions relating to fatality reviews and fatality review committees for the Department of Human Services;
- ▶ requires that an unredacted copy of a fatality review report and related documents be provided to the Office of Legislative Research and General Counsel and the chairs of the Health and Human Services Interim Committee and the Child Welfare Legislative Oversight Panel;
- ▶ gives the Health and Human Services Interim Committee authority to review, in a closed meeting, a fatality review report;
- ▶ requires the Child Welfare Legislative Oversight Panel to review, in a closed meeting, certain fatality review reports;

- 32           ▶ describes requirements relating to the annual executive summary on fatality review  
33           reports;  
34           ▶ amends the Government Records Access and Management Act to permit the  
35           disclosure of fatality review reports and related documents to the Office of  
36           Legislative Research and General Counsel and the chairs of the Health and Human  
37           Services Interim Committee and the Child Welfare Legislative Oversight Panel; and  
38           ▶ makes technical changes.

39 **Monies Appropriated in this Bill:**

40           None

41 **Other Special Clauses:**

42           None

43 **Utah Code Sections Affected:**

44 AMENDS:

45           **52-4-204**, as last amended by Laws of Utah 2006, Chapter 263 and renumbered and  
46           amended by Laws of Utah 2006, Chapter 14

47           **52-4-205**, as renumbered and amended by Laws of Utah 2006, Chapter 14

48           **52-4-206**, as last amended by Laws of Utah 2008, Chapter 382

49           **62A-4a-202.6**, as last amended by Laws of Utah 2009, Chapter 75

50           **62A-4a-409**, as last amended by Laws of Utah 2008, Chapters 3 and 299

51           **63G-2-202**, as last amended by Laws of Utah 2008, Chapters 87, 91 and renumbered  
52           and amended by Laws of Utah 2008, Chapter 382

53 ENACTS:

54           **62A-16-101**, Utah Code Annotated 1953

55           **62A-16-102**, Utah Code Annotated 1953

56           **62A-16-201**, Utah Code Annotated 1953

57           **62A-16-202**, Utah Code Annotated 1953

58           **62A-16-203**, Utah Code Annotated 1953

59           **62A-16-204**, Utah Code Annotated 1953

60           **62A-16-301**, Utah Code Annotated 1953

61           **62A-16-302**, Utah Code Annotated 1953

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63 *Be it enacted by the Legislature of the state of Utah:*

64 Section 1. Section **52-4-204** is amended to read:

65 **52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for**  
66 **meeting recorded.**

67 (1) A closed meeting may be held:

68 (a) if a quorum is present; and

69 (b) (i) if two-thirds of the members of the public body present at an open meeting for

70 which notice is given under Section 52-4-202 vote to approve closing the meeting[.]; or

71 (ii) for a meeting that is required to be closed under Section 52-4-205, if a majority of

72 the members of the public body present at an open meeting for which notice is given under

73 Section 52-4-202 vote to approve closing the meeting.

74 (2) A closed meeting is not allowed unless each matter discussed in the closed meeting  
75 is permitted under Section 52-4-205.

76 (3) An ordinance, resolution, rule, regulation, contract, or appointment may not be  
77 approved at a closed meeting.

78 (4) The following information shall be publicly announced and entered on the minutes  
79 of the open meeting at which the closed meeting was approved:

80 (a) the reason or reasons for holding the closed meeting;

81 (b) the location where the closed meeting will be held; and

82 (c) the vote by name, of each member of the public body, either for or against the  
83 motion to hold the closed meeting.

84 (5) [Nothing] Except as provided in Subsection 52-4-205(2), nothing in this chapter  
85 shall be construed to require any meeting to be closed to the public.

86 Section 2. Section **52-4-205** is amended to read:

87 **52-4-205. Purposes of closed meetings.**

88 (1) A closed meeting described under Section 52-4-204 may only be held for:

89 (a) discussion of the character, professional competence, or physical or mental health  
90 of an individual;

91 (b) strategy sessions to discuss collective bargaining;

92 (c) strategy sessions to discuss pending or reasonably imminent litigation;

93 (d) strategy sessions to discuss the purchase, exchange, or lease of real property if

public discussion of the transaction would:

- (i) disclose the appraisal or estimated value of the property under consideration; or
- (ii) prevent the public body from completing the transaction on the best possible terms;
- (e) strategy sessions to discuss the sale of real property if:

(i) public discussion of the transaction would:

- (A) disclose the appraisal or estimated value of the property under consideration; or
- (B) prevent the public body from completing the transaction on the best possible terms;
- (ii) the public body previously gave public notice that the property would be offered for

sale; and

- (iii) the terms of the sale are publicly disclosed before the public body approves the sale;

- (f) discussion regarding deployment of security personnel, devices, or systems;
- (g) investigative proceedings regarding allegations of criminal misconduct; ~~[and]~~
- (h) discussion by a county legislative body of commercial information as defined in

Section 59-1-404~~[-];~~ or

(i) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review and investigate a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); and

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review and investigate a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5).

~~[(2)]~~ (3) A public body may not interview a person applying to fill an elected position in a closed meeting.

Section 3. Section **52-4-206** is amended to read:

**52-4-206. Record of closed meetings.**

(1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:

(a) shall make a recording of the closed portion of the meeting; and

(b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.

(2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.

(3) The recording and any minutes of a closed meeting shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent; and

(c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

(4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(5) Both a recording and written minutes of closed meetings are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section 52-4-304.

(6) If a public body closes a meeting exclusively for the purposes described under Subsection 52-4-205(1)(a) [~~or Subsection 52-4-205~~], (1)(f), or (2):

(a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a) [~~or Subsection 52-4-205~~], (1)(f), or (2); and

(b) the provisions of Subsection (1) of this section do not apply.

Section 4. Section ~~62A-4a-202.6~~ is amended to read:

**62A-4a-202.6. Child protective services investigators within the Office of Attorney General -- Authority.**

(1) (a) In accordance with Section 67-5-16 the attorney general may employ, with the consent of the division, child protective services investigators to investigate reports of abuse or neglect of a child that occur while the child is in the custody of the division.

(b) (i) The division shall, in accordance with Subsection 62A-4a-409(5), contract with an independent child protective service investigator from the private sector to investigate reports of abuse or neglect of a child that occur while the child is in the custody of the division.

(ii) The executive director of the department shall designate an entity within the department, other than the division, to monitor the contract for the investigators described in Subsection (1)(b)(i).

(2) The investigators described in Subsection (1) may also investigate allegations of abuse or neglect of a child by a department employee or a licensed substitute care provider.

(3) The investigators described in Subsection (1), if not peace officers, shall have the same rights, duties, and authority of a child protective services investigator employed by the division to:

(a) make a thorough investigation upon receiving either an oral or written report of alleged abuse or neglect of a child, with the primary purpose of that investigation being the protection of the child;

(b) make an inquiry into the child's home environment, emotional, or mental health, the nature and extent of the child's injuries, and the child's physical safety;

(c) make a written report of their investigation, including determination regarding whether the alleged abuse or neglect was substantiated, unsubstantiated, or without merit, and forward a copy of that report to the division within the time mandates for investigations established by the division;

(d) immediately consult with school authorities to verify the child's status in accordance with Sections 53A-11-101 through 53A-11-103 when a report is based upon or includes an allegation of educational neglect;

(e) enter upon public or private premises, using appropriate legal processes, to investigate reports of alleged abuse or neglect; and

(f) take a child into protective custody, and deliver the child to a law enforcement officer, or to the division. Control and jurisdiction over the child shall be determined by the provisions of Title 62A, Chapter 4a, Part 2, Child Welfare Services, Title 78A, Chapter 6, Juvenile Court Act of 1996, and as otherwise provided by law.

Section 5. Section **62A-4a-409** is amended to read:

**62A-4a-409. Investigation by division -- Temporary protective custody -- Preremoval interviews of children.**

(1) (a) The division shall make a thorough preremoval investigation upon receiving either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug

dependency, when there is reasonable cause to suspect that a situation of abuse, neglect, fetal alcohol syndrome, or fetal drug dependency exists.

(b) The primary purpose of the investigation described in Subsection (1)(a) shall be protection of the child.

(2) The preremoval investigation described in Subsection (1)(a) shall include the same investigative requirements described in Section 62A-4a-202.3.

(3) The division shall make a written report of its investigation that shall include a determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit.

(4) (a) The division shall use an interdisciplinary approach when appropriate in dealing with reports made under this part.

(b) For this purpose, the division shall convene appropriate interdisciplinary "child protection teams" to assist it in its protective, diagnostic, assessment, treatment, and coordination services.

(c) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team shall include representatives of:

(i) health, mental health, education, and law enforcement agencies;

(ii) the child;

(iii) parent and family support groups unless the parent is alleged to be the perpetrator;

and

(iv) other appropriate agencies or individuals.

(5) In any case where the division supervises, governs, or directs the affairs of any individual, institution, or facility that is alleged to be involved in acts or omissions of abuse or neglect, the investigation of the reported abuse or neglect shall be conducted by an ~~agency other than the division~~ independent child protective service investigator from the private sector.

(6) If a report of neglect is based upon or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53A-11-101 through 53A-11-103.

(7) When the division completes its initial investigation under this part, it shall give

218 notice of that completion to the person who made the initial report.

219 (8) Division workers or other child protection team members have authority to enter  
220 upon public or private premises, using appropriate legal processes, to investigate reports of  
221 alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse  
222 Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

223 (9) With regard to any interview of a child prior to removal of that child from the  
224 child's home:

225 (a) except as provided in Subsection (9)(b) or (c), the division shall inform a parent of  
226 the child prior to the interview of:

227 (i) the specific allegations concerning the child; and

228 (ii) the time and place of the interview;

229 (b) if a child's parent or stepparent, or a parent's paramour has been identified as the  
230 alleged perpetrator, the division is not required to comply with Subsection (9)(a);

231 (c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family  
232 is unknown, the division may conduct a minimal interview or conversation, not to exceed 15  
233 minutes, with the child prior to complying with Subsection (9)(a);

234 (d) in all cases described in Subsection (9)(b) or (c), a parent of the child shall be  
235 notified as soon as practicable after the child has been interviewed, but in no case later than 24  
236 hours after the interview has taken place;

237 (e) a child's parents shall be notified of the time and place of all subsequent interviews  
238 with the child; and

239 (f) the child shall be allowed to have a support person of the child's choice present,  
240 who:

241 (i) may include:

242 (A) a school teacher;

243 (B) an administrator;

244 (C) a guidance counselor;

245 (D) a child care provider;

246 (E) a family member;

247 (F) a family advocate; or

248 (G) clergy; and



(ii) may not be a person who is alleged to be, or potentially may be, the perpetrator.

(10) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile Court Act of 1996, and as otherwise provided by law.

(11) With regard to cases in which law enforcement has or is conducting an investigation of alleged abuse or neglect of a child:

(a) the division shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and

(b) the division is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

Section 6. Section **62A-16-101** is enacted to read:

## **CHAPTER 16. FATALITY REVIEW ACT**

### **Part 1. General Provisions**

#### **62A-16-101. Title.**

This chapter is known as the "Fatality Review Act."

Section 7. Section **62A-16-102** is enacted to read:

#### **62A-16-102. Definitions.**

(1) "Committee" means a fatality review committee, formed under Section 62A-16-202 or 62A-16-203.

(2) "Qualified individual" means an individual who:

(a) is a resident of a facility or program that is owned or operated by, or under the direction of, the department or a division or office of the department at the time that the individual dies;

(b) was a resident of a facility or program that is owned or operated by, or under the direction of, the department or a division or office of the department within one year immediately preceding the day on which the individual dies;

(c) is in the physical or legal custody of the department or a division or office of the

280 department at the time that the individual dies;  
281 (d) is placed in a program or facility provided by, financed by, or under contract with  
282 the department or a division or office of the department at the time that the individual dies;  
283 (e) at the time that the individual dies, has an open case for the receipt of child welfare  
284 services, including:  
285 (i) an investigation for abuse, neglect, or dependency;  
286 (ii) foster care;  
287 (iii) in-home services; or  
288 (iv) substitute care;  
289 (f) had an open case for the receipt of child welfare services within one year  
290 immediately preceding the day on which the individual dies;  
291 (g) was the subject of a referral received by, was the subject of an investigation by, or  
292 had an open case with the Division of Aging and Adult Services within one year immediately  
293 preceding the day on which the individual dies, if the death is reported as a homicide, suicide,  
294 or an undetermined cause;  
295 (h) had an open case for the receipt of services from, or under the direction of, the  
296 Division of Services for People with Disabilities within one year immediately preceding the  
297 day on which the individual dies, unless the individual:  
298 (i) lived in the individual's home; and  
299 (ii) died while receiving services from, or under the direction of, the Division of  
300 Services for People with Disabilities, other than day treatment or respite services; or  
301 (i) is designated as a qualified individual by the executive director.  
302 Section 8. Section **62A-16-201** is enacted to read:  
303 **Part 2. Fatality Review**  
304 **62A-16-201. Initial review.**  
305 (1) Within three days after the day on which the department knows that a qualified  
306 individual has died, the region or facility with jurisdiction shall:  
307 (a) complete a deceased client report form, created by the department; and  
308 (b) forward the completed client report form to the director of the office or division  
309 that has jurisdiction over the region or facility.  
310 (2) The director of the office or division described in Subsection (1) shall, upon receipt

of a deceased client report form, immediately provide a copy of the form to:

(a) the executive director; and

(b) the fatality review coordinator.

(3) Within seven days after the day on which the fatality review coordinator receives a copy of the deceased client report form, the fatality review coordinator shall request a copy of all existing department case records relating to the individual who is the subject of the deceased client report form.

(4) Each person who receives a request for a record described in Subsection (3) shall deliver a copy of the record to the fatality review coordinator, by a secure delivery method, within seven days after the day on which the request is made.

(5) Within 20 days after the day on which the fatality review coordinator receives the case records requested under Subsection (3), the fatality review coordinator shall:

(a) review the deceased client report form, the case files, and other relevant information received by the fatality review coordinator; and

(b) make a recommendation to the executive director regarding whether a formal fatality review should be conducted.

(6) (a) In accordance with Subsection (6)(b), within seven days after the day on which the fatality review coordinator makes the recommendation described in Subsection (5)(b), the executive director shall determine whether to order that a formal fatality review be conducted.

(b) The executive director shall order that a formal fatality review be conducted if:

(i) at the time of death, the qualified individual is:

(A) an individual described in Subsection 62A-16-102(2)(a); or

(B) a child in foster care;

(ii) it appears, based on the information provided to the executive director, that:

(A) a provision of law, rule, policy, or procedure relating to the deceased individual or the deceased individual's family may have not been complied with;

(B) the fatality was not responded to properly;

(C) a law, rule, policy, or procedure may need to be changed; or

(D) additional training is needed; or

(iii) the executive director determines that another reason exists to order that a formal fatality review be conducted.

Section 9. Section **62A-16-202** is enacted to read:

**62A-16-202. Fatality Review Committee for a deceased individual who was not a resident of the Utah State Hospital or the Utah State Developmental Center.**

(1) Except for a fatality review committee described in Section 62A-16-203, the fatality review coordinator shall organize a fatality review committee for each formal fatality review that is ordered to be conducted under Subsection 62A-16-201(6).

(2) Except as provided in Subsection (5), a committee described in Subsection (1) shall include the following members:

(a) the department's fatality review coordinator, who shall serve as chair of the committee;

(b) a member of the board, if there is a board, of the relevant division or office;

(c) the attorney general or the attorney general's designee;

(d) (i) a member of the management staff of the relevant division or office;

(ii) a person who is a supervisor, or a higher level position, from a region that did not have jurisdiction over the qualified individual; or

(iii) a member of the administrative staff of a residence or facility that is similar to the one where the death occurred;

(e) a member of the department's risk management services; and

(f) (i) if the death involves a qualified individual described in Subsection 62A-16-102(2)(e) or (f), a member of the Child Welfare Legislative Oversight Panel; or

(ii) if the death involves a qualified individual, other than a qualified individual described in Subsection 62A-16-102(2)(e) or (f), a member of the Health and Human Services Interim Committee.

(3) If a death that is subject to formal review involves a qualified individual described in Subsection 62A-16-102(2)(e) or (f), the committee may also include:

(a) a health care professional;

(b) a law enforcement officer;

(c) the director of the Office of Guardian ad Litem;

(d) an employee of the division who may be able to provide information or expertise that would be helpful to the formal review; or

(e) a professional whose knowledge or expertise may significantly contribute to the

373 formal review.

374 (4) A committee described in Subsection (1) may also include a person whose  
375 knowledge or expertise may significantly contribute to the formal review.

376 (5) A committee described in this section may not include an individual who was  
377 involved in, or who supervises a person who was involved in, the fatality.

378 Section 10. Section **62A-16-203** is enacted to read:

379 **62A-16-203. Fatality Review Committees for a deceased resident of the Utah State**  
380 **Hospital or the Utah State Developmental Center.**

381 (1) If a qualified individual who is the subject of a formal fatality review that is ordered  
382 to be conducted under Subsection 62A-16-201(6), was, within one year immediately preceding  
383 the day on which the qualified individual died, a resident of the Utah State Hospital or the Utah  
384 State Developmental Center, the fatality review coordinator of that facility shall organize a  
385 fatality review committee to review the fatality.

386 (2) Except as provided in Subsection (4), a committee described in Subsection (1) shall  
387 include the following members:

388 (a) the fatality review coordinator for the facility, who shall serve as chair of the  
389 committee;

390 (b) a member of the management staff of the facility;

391 (c) a supervisor of a unit other than the one in which the qualified individual resided;

392 (d) a physician;

393 (e) a representative from the administration of the division that oversees the facility;

394 (f) the department's fatality review coordinator;

395 (g) a member of the department's risk management services; and

396 (h) a citizen who is not an employee of the department.

397 (3) A committee described in Subsection (1) may also include a person whose  
398 knowledge or expertise may significantly contribute to the formal review.

399 (4) A committee described in this section may not include an individual who was  
400 involved in, or who supervises a person who was involved in, the fatality.

401 Section 11. Section **62A-16-204** is enacted to read:

402 **62A-16-204. Fatality Review Committee Proceedings.**

403 (1) A majority of the members of a committee constitute a quorum.

404 (2) A majority vote of a quorum constitutes the action of the committee.

405 (3) The department shall give the committee access to all reports, records, and other  
406 documents that are relevant to the fatality under investigation, including:

407 (a) narrative reports;

408 (b) case files;

409 (c) autopsy reports; and

410 (d) police reports.

411 (4) A committee shall convene its first meeting within seven days after the day on  
412 which a formal fatality review is ordered under Subsection 62a-16-201(6), unless this time is  
413 extended, for good cause, by the executive director.

414 (5) A committee may interview a staff member, a provider, or any other person who  
415 may have knowledge or expertise that is relevant to the fatality review.

416 (6) A committee shall determine:

417 (a) whether the provisions of law, rule, policy, and procedure relating to the deceased  
418 individual and the deceased individual's family were complied with;

419 (b) whether the fatality was responded to properly;

420 (c) whether to recommend that a law, rule, policy, or procedure be changed; and

421 (d) whether additional training is needed.

422 Section 12. Section **62A-16-301** is enacted to read:

### 423 **Part 3. Reporting and Review**

#### 424 **62A-16-301. Fatality review committee report -- Response to report.**

425 (1) Within 20 days after the day on which the committee proceedings described in  
426 Section 62A-16-204 end, the committee shall submit:

427 (a) a written report to the executive director that includes:

428 (i) the determinations made under Subsection 62A-16-204(6); and

429 (ii) any recommendations regarding action that should be taken in relation to an  
430 employee of the department or a person who contracts with the department; and

431 (b) an unredacted copy of the report described in Subsection (1)(a) to:

432 (i) the director of the office or division to which the fatality relates; and

433 (ii) the office of Legislative Research and General Counsel.

434 (2) Within 20 days after the day on which the director described in Subsection(1)(b)(i)

receives a copy of the report described in Subsection (1)(a), the director shall provide a written response to the executive director, and an unredacted copy of the response to the Office of Legislative Research and General Counsel, if the report:

(a) indicates that a law, rule, policy, or procedure was not complied with;

(b) indicates that the fatality was not responded to properly;

(c) recommends that a law, rule, policy, or procedure be changed;

(d) indicates that additional training is needed; or

(e) recommends that action be taken in relation to an employee of the department or a person who contracts with the department.

(3) The response described in Subsection (2) shall include a plan of action to implement any recommended improvements within the office or division.

(4) Within 20 days after the day on which the executive director receives the response described in Subsection (2), the executive director, or the executive director's designee shall:

(a) review the action plan described in Subsection (3);

(b) make any written response that the executive director or the executive director's designee determines is necessary; and

(c) provide a copy of the written response described in Subsection (4)(b) to the Office of Legislative Research and General Counsel.

Section 13. Section **62A-16-302** is enacted to read:

**62A-16-302. Reporting to, and review by, legislative committees.**

(1) The Office of Legislative Research and General Counsel shall provide a copy of the report described in Subsection 62A-16-301(1)(a), and the responses described in Subsections 62A-16-301(2) and (4)(b) to the chairs of:

(a) the Health and Human Services Interim Committee; or

(b) if the individual who is the subject of the report was, at the time of death, a person described in Subsection 62A-16-102(2)(e) or (f), the Child Welfare Legislative Oversight Panel.

(2) (a) The Health and Human Service Interim Committee may, in a closed meeting, review a report described in Subsection 62A-16-301(1)(a).

(b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a report described in Subsection (1)(b).

(3) (a) Neither the Health and Human Service Interim Committee nor the Child Welfare Legislative Oversight Panel may interfere with, or make recommendations regarding, the resolution of a particular case.

(b) The purpose of a review described in Subsection (2) is to assist a committee or panel described in Subsection (2) in determining whether to recommend a change in the law.

(c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a change in the law shall be made in an open meeting.

(4) On or before September 1 of each year, the department shall provide an executive summary of all fatality review reports for the preceding state fiscal year to:

(a) the Health and Human Services Interim Committee; and

(b) the Child Welfare Legislative Oversight Panel.

(5) The executive summary described in Subsection (4):

(a) may not include any names or identifying information; and

(b) shall include:

(i) all recommendations regarding changes to the law that were made during the preceding fiscal year under Subsection 62A-16-204(6);

(ii) all changes made, or in the process of being made, to a law, rule, policy, or procedure in response to a fatality review that occurred during the preceding fiscal year;

(iii) a description of the training that has been completed in response to a fatality review that occurred during the preceding fiscal year;

(iv) statistics for the preceding fiscal year regarding:

(A) the number and type of fatalities of qualified individuals;

(B) the number of formal fatality reviews conducted;

(C) the categories, described in Subsection 62A-16-102(2) of qualified individuals who died;

(D) the gender, age, race, and other significant categories of qualified individuals who died and;

(E) the number of fatalities of qualified individuals that were identified as suicides; and

(v) action taken by the Office of Licensing and the Bureau of Internal Audits in response to the fatality of a qualified individual.

Section 14. Section **63G-2-202** is amended to read:



**63G-2-202. Access to private, controlled, and protected documents.**

(1) Upon request, and except as provided in Subsection (11)(a), a governmental entity shall disclose a private record to:

(a) the subject of the record;

(b) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(c) the legal guardian of a legally incapacitated individual who is the subject of the record;

(d) any other individual who:

(i) has a power of attorney from the subject of the record;

(ii) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

(iii) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(e) any person to whom the record must be provided pursuant to:

(i) court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with

528 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,  
529 including the subject of the record.

530 (3) If there is more than one subject of a private or controlled record, the portion of the  
531 record that pertains to another subject shall be segregated from the portion that the requester is  
532 entitled to inspect.

533 (4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental  
534 entity shall disclose a protected record to:

535 (a) the person who submitted the record;

536 (b) any other individual who:

537 (i) has a power of attorney from all persons, governmental entities, or political  
538 subdivisions whose interests were sought to be protected by the protected classification; or

539 (ii) submits a notarized release from all persons, governmental entities, or political  
540 subdivisions whose interests were sought to be protected by the protected classification or from  
541 their legal representatives dated no more than 90 days prior to the date the request is made;

542 (c) any person to whom the record must be provided pursuant to:

543 (i) a court order as provided in Subsection (7); or

544 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena  
545 Powers; or

546 (d) the owner of a mobile home park, subject to the conditions of Subsection  
547 41-1a-116(5).

548 (5) A governmental entity may disclose a private, controlled, or protected record to  
549 another governmental entity, political subdivision, another state, the United States, or a foreign  
550 government only as provided by Section 63G-2-206.

551 (6) Before releasing a private, controlled, or protected record, the governmental entity  
552 shall obtain evidence of the requester's identity.

553 (7) A governmental entity shall disclose a record pursuant to the terms of a court order  
554 signed by a judge from a court of competent jurisdiction, provided that:

555 (a) the record deals with a matter in controversy over which the court has jurisdiction;

556 (b) the court has considered the merits of the request for access to the record; and

557 (c) the court has considered and, where appropriate, limited the requester's use and  
558 further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, outweigh the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) A governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research outweighs the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use

or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the records committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(8), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.

(11) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(e).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

(12) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsection 62A-16-302(1).

(b) A record disclosed under Subsection (12)(a) shall retain its character as private.

621 protected, or controlled.

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**Legislative Review Note**  
**as of 12-1-09 10:36 AM**

**Office of Legislative Research and General Counsel**